

## SUBCHAPTER E—INSTITUTE OF MUSEUM AND LIBRARY SERVICES

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SOURCE: 48 FR 27728, June 17, 1983, unless otherwise noted.

#### Subpart A—Definitions and Eligibility

SOURCE: 71 FR 6371, Feb. 8, 2006, unless otherwise noted.

##### § 1180.1 Scope of this part.

This part establishes rules for the award of grants from funds appropriated under the Museum and Library Services Act, including rules governing the eligibility of applicant institutions, the type of assistance which may be provided, requirements which applicants must meet and criteria to be used in evaluating applications.

##### § 1180.2 Definition of a museum.

For the purpose of this part:

(a) Museum means a public or private nonprofit institution which is organized on a permanent basis for essentially educational or aesthetic purposes and which, using a professional staff:

- (1) Owns or uses tangible objects, either animate or inanimate;
- (2) Cares for these objects; and

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(3) Exhibits them to the general public on a regular basis.

(i) An institution which exhibits objects to the general public for at least 120 days a year shall be deemed to meet this requirement.

(ii) An institution which exhibits objects by appointment may meet this requirement if it can establish, in light of the facts under all the relevant circumstances, that this method of exhibition does not unreasonably restrict the accessibility of the institution's exhibits to the general public.

(b) Museums include, but are not limited to, the following types of institutions, if they otherwise satisfy the provision of this section:

- (1) Aquariums;
- (2) Arboretums;
- (3) Botanical gardens;
- (4) Art museums;
- (5) Children's museums;
- (6) General museums;
- (7) Historic houses and sites;
- (8) History museums;
- (9) Nature centers;
- (10) Natural history and anthropology museums;
- (11) Planetariums;
- (12) Science and technology centers;
- (13) Specialized museums; and
- (14) Zoological parks.

(c) For the purposes of this section, an institution uses a professional staff if it employs at least one staff member, or the fulltime equivalent, whether paid or unpaid primarily engaged in the acquisition, care, or exhibition to the public of objects owned or used by the institution.

(d)(1) Except as set forth in paragraph (d)(2) of this section, an institution exhibits objects to the general public for the purposes of this section if such exhibition is a primary purpose of the institution.

(2) An institution which does not have as a primary purpose the exhibition of objects to the general public but which can demonstrate that it exhibits objects to the general public on a regular basis as a significant, separate, distinct, and continuing portion of its activities, and that it otherwise meets the requirements of this section, may be determined to be a museum under this section. In order to establish its eligibility, such an institution must

provide information regarding the following:

(i) The number of staff members devoted to museum functions as described in paragraph (a) of this section.

(ii) The period of time that such museum functions have been carried out by the institution over the course of the institution's history.

(iii) Appropriate financial information for such functions presented separately from the financial information of the institution as a whole.

(iv) The percentage of the institution's total space devoted to such museum functions.

(v) Such other information as the Director requests.

(3) The Director uses the information furnished under paragraph (d)(2) of this section in making a determination regarding the eligibility of such an institution under this section.

(e) For the purpose of this section, an institution exhibits objects to the public if it exhibits the objects through facilities which it owns or operates.

#### § 1180.3 Other definitions.

The following other definitions apply in this part:

*Act* means The museum and Library Services Act, Pub. L. 104-208 (20 U.S.C. 9101-9176), as amended.

*Board* means the National Museum and Services Board established by The Museum and Library Services Act of 2003, Pub. L. 108-81 (20 U.S.C. 9105a).

*Collection* includes objects owned, used or loaned by a museum as well as those literary, archival and documentary resources specifically required for the study and interpretation of these objects.

*Director* means the Director of the Institute of Museum and Library Services.

*Foundation* means the National Foundation on the Arts and the Humanities.

*Grantee* means the recipient of a grant under the Act.

*Institute* or *IMLS* means the Institute of Museum and Library Services established under Section 203 of the Act.

*Museum services* means services provided by a museum, primarily exhibiting objects to the general public, and including but not limited to preserving and maintaining its collections, and

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providing educational and other programs to the public through the use of its collections and other resources.

### § 1180.4 Museum eligibility and burden of proof—Who may apply.

(a) A museum located in any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau may apply for a grant under the Act.

(b) A public or private nonprofit agency which is responsible for the operation of a museum may, if necessary, apply on behalf of the museum.

(c) A museum operated by a department or agency of the Federal Government is not eligible to apply.

(d) An applicant has the burden of establishing that it is eligible for assistance under these regulations.

### § 1180.5 Related Institutions.

(a) If two or more institutions are under the common control of one agency or institution or are otherwise organizationally related and apply for assistance under the Act, the Director determines under all the relevant circumstances whether they are separate museums for the purpose of establishing eligibility for assistance under these regulations. *See* § 1180.4.

(b) IMLS regards the following factors, among others, as showing that a related institution is a separate museum:

(1) The institution has its own governing body;

(2) The institution has budgetary autonomy; and

(3) The institution has administrative autonomy.

### § 1180.6 Basic materials which an applicant must submit to be considered for funding.

(a) *Application.* To apply for a grant, an applicant must submit the designated application form containing all information requested. Failure to submit information required by the application at the time of filing can subject an applicant to rejection of the appli-

cation without consideration on its merits.

(b) *IRS letter.* An applicant applying as a private, nonprofit institution must submit a copy of the letter from the Internal Revenue Service indicating the applicant's eligibility for nonprofit status under the applicable provision of the Internal Revenue Code of 1954, as amended.

## Subpart B—General Application, Selection and Award Procedures Applications

### APPLICATIONS

### § 1180.30 Publication of application notices; content of notices.

Each fiscal year the Director publishes application notices that explain what kind of assistance is available that fiscal year under the Act.

[48 FR 27728, June 17, 1983, as amended at 71 FR 6372, Feb. 8, 2006]

### § 1180.31 Information in application notices.

Application notices generally include:

(a) How an applicant can get an application packet containing detailed information about the program including an application form;

(b) Where an applicant must send its application;

(c) The amount of funds for which an applicant may apply;

(d) Any priorities established by the Institute for that year; and

(e) A reference to the applicable regulations.

[71 FR 6372, Feb. 8, 2006]

### § 1180.32 Deadline date for applications.

(a) The application notice sets the deadline date for applications to be postmarked or hand delivered to the Institute. The applicant shall:

(1) Mail the application to the address specified in the application notice on or before the deadline date; or

(2) Hand deliver the application to the address specified in the application notice by 4:30 p.m. (Washington, DC time) on deadline date.

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(b) An applicant must be prepared to show one of the following as proof of timely mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other dated proof of mailing acceptable to the Director.

(c) If an application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not date cancelled by the U.S. Postal Service.

(d) The Director of IMLS may publish, in applicable application notices and program guidelines, additional ways in which an application can be submitted to the agency electronically.

[48 FR 27728, June 17, 1983, as amended at 71 FR 6372, Feb. 8, 2006]

### § 1180.33 Applicants must meet procedural rules.

The Director is authorized to make a grant only to an eligible applicant that submits a complete application, including attachments, on or before the deadline.

### § 1180.34 [Reserved]

### § 1180.35 Group applications.

(a) Eligible applicants may apply as a group for a project grant.

(b) If a group of applicants applies for a grant, the members of the group shall either:

(1) Designate one member of the group to apply for the grant; or

(2) Establish a separate, eligible legal entity, consisting solely of the applicant group, to apply for the grant.

(c) The members of the group, or entity, shall enter into an agreement that:

(1) Details the activities that each member of the group plans to perform; and

(2) Binds each member of the group to every statement and assurance made by the applicant in the application.

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(d) The applicant shall submit the agreement together with its application.

(e) If the Director makes a grant to a group of eligible applicants, the applicant for the group is the grantee and is legally responsible for:

(1) The use of all grant funds; and

(2) Ensuring that the project is carried out by the group in accordance with applicable Federal laws, regulations, and requirements.

(f) Each member of the group is legally responsible for:

(1) Carrying out the activities it agrees to perform; and

(2) Using the funds it receives under the agreement in accordance with applicable Federal laws, regulations, and requirements.

[48 FR 27728, June 17, 1983, as amended at 60 FR 63964, Dec. 13, 1995; 71 FR 6372, Feb. 8, 2006]

### SELECTION AND AWARD PROCEDURES

### § 1180.36 Rejection of an application.

(a) The Director rejects an application if:

(1) The applicant is not eligible;

(2) The applicant fails to comply with procedural rules that govern the submission of the application;

(3) The application does not contain the information required;

(4) The application cannot be funded under the authorizing statute or implementing regulations.

(b) If the Director rejects an application under this section, the Director informs the applicant and explains why the application was rejected.

### § 1180.37 Rejection for technical deficiency—appeal; reconsideration; waiver.

(a) An applicant whose application is rejected because of technical deficiency may appeal such rejection in writing to the Director within 10 days of postmark of notice of rejection.

(b) If an application was rejected because material did not accompany the application, the Director shall reconsider the application upon receipt of material in a timely manner.

(c) As has always been the practice of IMLS, the Director waives the requirement in these regulations of certain

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records under circumstances which would require such waivers where the regulations specifically provide for waiver. (See § 1180.51(b) (Pub. L. 97-394))

### § 1180.38 [Reserved]

### § 1180.39 Applications not selected for funding.

If an application is not selected for funding, the Director informs the applicant.

### § 1180.40 [Reserved]

### § 1180.41 The cost analysis; basis for grant amount.

Before the Director sets the amount of a grant, a cost analysis of the project is made which involves an examination of:

- (a) The cost data in the detailed budget for the project;
- (b) Specific elements of cost; and
- (c) The necessity, reasonableness, and allowability under applicable statutes and regulations.

[60 FR 63964, Dec. 13, 1995]

### § 1180.42 The notification of grant award.

- (a) The Director furnishes a notification of grant award to the grantee.
- (b) The notification of grant award sets the amount of the grant and gives other information about the grant.

### § 1180.43 Effect of the grant.

The grant obligates both the Federal Government and the grantee to all of the requirements, regulations and statutes that apply to the grant.

## Subpart C—General Conditions Which Must Be Met by a Grantee

### NONDISCRIMINATION

### § 1180.44 Federal statutes and regulations on nondiscrimination.

- (a) Each grantee shall comply with the following statutes:

Subject	Statute
Discrimination on the basis of race, color or national origin.	Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d through 2000d-4)
Discrimination on the basis of sex.	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1683).

Subject	Statute
Discrimination on the basis of handicap.	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).
Discrimination on the basis of age.	The Age Discrimination Act (420 U.S.C. 8101 et. seq).

(b) *Regulations under section 504 of the Rehabilitation Act of 1973.* The Institute applies the regulations in 45 CFR part 1170, issued by the National Endowment for the Humanities and relating to nondiscrimination on the basis of handicap in federally assisted programs and activities, in determining the compliance with section 504 of the Rehabilitation Act of 1973 as it applies to recipients of Federal financial assistance from the Institute. These regulations apply to each program or activity that receives such assistance. In applying these regulations, references to the *Endowment* of the *agency* shall be deemed to be references to the Institute and references to the *Chairman* shall be deemed to be references to the Director.

[55 FR 51104, Dec. 12, 1990, as amended at 71 FR 6372, Feb. 8, 2006]

### § 1180.45 [Reserved]

### EVALUATION

### § 1180.46 Evaluation by the grantee.

A grantee shall evaluate at least semi-annually:

- (a) The grantee's progress in achieving the objectives set forth in its approved application; and
- (b) The contribution of the grant toward meeting the purposes of the Act.

### § 1180.47 Federal evaluation—Cooperation by a grantee.

A grantee shall cooperate in any evaluation by the Director of the particular grant program in which grantee has participated.

### PUBLICATIONS AND COPYRIGHTS

### § 1180.48 General conditions on publications.

- (a) *Content of materials.* Subject to any specific requirements that apply to its grant, a grantee may decide the format and content of materials that it publishes or arranges to have published.

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(b) *Required Statement.* The grantee shall ensure that any publication that contains materials also contains the following statement:

The contents of this (insert type of publication, e.g., book, report, film) were developed in whole or in part under a grant from the Institute of Museum and Library Services. However, the contents do not necessarily represent the policy of the Institute, and endorsement by the Federal Government should not be assumed.

[60 FR 63964, Dec. 13, 1995]

## § 1180.49 Copyright policy for grantees.

A grantee may copyright materials in accordance with government-wide policy applicable to copyright of publications developed under Federal grants.

[60 FR 63964, Dec. 13, 1995]

## § 1180.50 Definition of “materials.”

As used in §§ 1180.48 through 1180.49, materials means a copyrightable work developed in whole or in part with funds from a grant from the Institute.

[60 FR 63964, Dec. 13, 1995]

### GENERAL ADMINISTRATIVE RESPONSIBILITIES

## § 1180.51 Compliance with statutes, regulations, and its approved grant application.

(a) A grantee shall comply with applicable statutes, regulations, and the approved grant application, and shall use Federal funds in accordance therewith.

(b) No official, agent, or employee of the Institute may waive any regulation unless the regulation specifically provides for waiver.

(c) No act or failure to act by an official, agent, or employee of the Institute can affect the authority of the Director to enforce regulations.

(d) In any circumstance for which waiver is provided, the determination of the Director shall be final.

## § 1180.52 The grantee administers or supervises the grant.

A grantee shall directly administer or supervise the administration of the grant and be answerable therefor.

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## § 1180.53 Fiscal control and fund accounting procedures.

A grantee shall exert fiscal control and employ fund accounting procedures that ensure proper disbursement of and accounting for Federal funds in accordance with OMB circulars A–102 and A–110.

## § 1180.54 Obligation of funds during the grant period.

A grantee may use grant funds for obligations it makes only during the grant period.

## § 1180.55 Prohibition of subgrants.

(a) A grantee may not make a subgrant.

(b) A grantee may contract for supplies, equipment, and services subject to § 1180.45(a).

## § 1180.56 Allowable costs.

(a) Determination of costs allowable under a grant is made in accordance with government-wide cost principles in applicable OMB circulars.

(b) No costs shall be allowed for the purchase of any object to be included in the collection of a museum, except library, literary, or archival material specifically required for a designated activity under a grant under the Act.

[71 FR 6372, Feb. 8, 2006]

## § 1180.57 Use of consultants.

(a) Subject to Federal statutes and regulations, a grantee shall adhere to its general policies and practices when it hires, uses, and pays a consultant as part of the staff.

(b) The grantee may not use its grant to pay a consultant unless;

(1) There is a need in the project for the services of that consultant; and

(2) The grantee cannot meet that need through using an employee rather than a consultant.

[71 FR 6372, Feb. 8, 2006]

## § 1180.58 Duration of grants.

The grantee may use grant funds during the period specified in the grant document unless the grant is suspended or terminated. If the grantee needs additional time to complete the grant, the grantee may apply for an extension of the grant period without additional

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funds. The Director or the Director's designee may approve this extension at his or her discretion.

[71 FR 6372, Feb. 8, 2006]

### RECORDS

#### § 1180.59 Records related to grant funds.

A grantee shall, in accordance with applicable OMB circulars, keep records that show accurately and in full:

- (a) The amount of funds awarded under the grant;
- (b) The exact uses of the funds;
- (c) The total amount expended under the grant;
- (d) The amount expended under the grant during the grant period provided from non-Federal sources; and
- (e) Other records necessary to facilitate an effective audit.

[71 FR 6372, Feb. 8, 2006]

#### § 1180.60 Records related to compliance.

A grantee shall, in accordance with applicable OMB circulars, keep accurate and full records to show its compliance with specific requirements set forth in the regulations and published notices, or contained in the grant award documents.

[71 FR 6373, Feb. 8, 2006]

#### § 1180.61 Records related to performance.

(a) A grantee shall keep records demonstrating the progress and results under the grant and shall provide such records to the Institute upon request.

(b) The grantee shall use the records created pursuant to paragraph (a) of this section to:

- (1) Determine progress in accomplishing objectives; and
- (2) Revise those objectives, if necessary and authorized under the grant.

[71 FR 6373, Feb. 8, 2006]

### Subpart D—Museum Conservation Program

#### § 1180.70 Guidelines and standards for museum conservation projects.

(a) *Scope.* The guidelines and standards in this subpart apply to all aspects

of the IMLS conservation grant program including the submission of applications by museums for conservation grants, to the award, review and approval of such applications by IMLS, and to the carrying out of conservation grants awarded by IMLS.

(b) *Applicability of regulations.* Except as otherwise provided in these guidelines, subparts A–C of this part, as amended, apply to the IMLS conservation grant program.

(c) *Definition.* As used in these guidelines, the term conservation includes, but is not limited to, the following functions, as applied to art, history, natural history, science and technology, and living collections:

(1) Technical examination of materials and surveys of environmental and collection conditions;

(2) Provision, insofar as practicable, of optimum environmental conditions for housing, exhibition, monitoring, reformatting, nurturing and transportation of objects;

(3) Physical treatment of objects, specimens and organisms, for the purpose of stabilizing, conserving and preserving their condition, removal of inauthentic additions or accretions, and physical compensation for losses; species survival activities; and

(4) Research and training in conservation.

(d) *Applicants.* A museum may apply for and receive only one conservation grant under this program in a fiscal year.

(e) *Types of conservation projects funded.* IMLS considers applications to carry out conservation projects such as:

(1) Projects to develop improved or less costly methods of conservation, or to maintain or improve conservation with respect to one or more collections, including—

(i) Projects involving surveys of conservation needs and

(ii) Projects to establish or maintain optimum environmental conditions.

(2) Projects to conduct research in conservation (including developmental and basic research).

(3) Projects to conduct or obtain training in conservation (including

training of persons for careers as professional conservators; training or upgrading of practicing conservators and conservation technicians in the use of new materials and techniques; and training of persons to become conservation technicians).

(4) Projects related to museum conservation needs not regularly addressed by other Federal funding agencies.

(5) Projects to meet the conservation needs of museums which are unable to maintain their own individual conservation facilities. Because grants are made only to museums, organizations which operate regional conservation centers but which are not museums are ineligible for a direct grant. However, a museum or a group of museums may use a grant to obtain services from such a center.

(6) Projects to conserve particular objects in a museum's collection (including plants and animals) or to meet the conservation needs of a particular museum (through such activities as the employment of conservators and the procurement of conservation services or equipment).

(f) *Limits for Federal funding.* (1) The normal amount of a Conservation Project Support grant will be established in the applicable program guidelines. Unless otherwise provide by law, if the Director determines that exceptional circumstance warrant, the Director may award a conservation grant which obligates an amount in Federal funds in excess of the normal maximum award. IMLS may establish a maximum award level for exceptional project grants for a particular fiscal year through information made available in guidelines or other material distributed to all applicants.

(2) IMLS makes conservation grants only on a matching basis. This means that at least 50 percent of the costs of a conservation project must be met from non-federal funds. Principles in applicable OMB circulars regarding costs sharing or matching apply.

(g) *Application requirements; priorities; survey required in certain cases.* (1) Application requirements in §1180.6(a) and (b) apply. An application shall describe when, during the term of the grant, the applicant plans to complete each objective or phase of the project. Where ap-

propriate, IMLS may require an applicant to submit a dissemination plan.

(2) The Director, by notice published in the FEDERAL REGISTER, may establish priorities with respect to all or part of the funds available to IMLS for conservation for a fiscal year among the types of projects specified in paragraph (e) of this section.

(3) The Director may, to the extent appropriate, require (by instructions in the application materials) that an applicant which proposes a project to conserve particular objects must show that, prior to the submission of the application, it has carried out a general survey of its conservation needs and priorities and that the project in question is consistent with such survey. In exceptional circumstances, the Director may adjust this requirement. The Director may also (through such instructions) require an applicant for a conservation project to submit additional information, material, or undertakings to carry out the purposes of this part.

(h) *Procedures for review of applications* (1) IMLS uses the procedures stated in this paragraph to review applications for conservation projects.

(2) IMLS evaluates all eligible applications for conservation projects in accordance with applicable criteria. (See paragraph (i) of this section.) The Director expects to use panels of experts to review at least a portion of the applications for conservation grants. Depending upon the number of applications received as well as other factors, the Director may also use field reviewers to evaluate applications before submission of applications to the panels. In addition, the Director may use technical experts to provide technical advice regarding certain applications.

(i) *Criteria.* This paragraph sets forth the general criteria which IMLS uses in evaluating and reviewing applications for conservation projects.

(1) The following programmatic criteria apply to the evaluation and review of conservation grants:

(i) What is the importance of the object or objects to be conserved? What is the significance of the object or objects to the museum's collection and/or audience?



(ii) What is the need for the project, including the relationship of the project to the conservation needs and priorities of the applicant museum as reflected in a survey of conservation needs or similar needs assessment?

(iii) What are the applicant's plans to use and maintain the anticipated results or benefits of the project after the expiration of Federal support?

(iv) Does the applicant plan to devote adequate financial and other resources to the project without inhibiting its ongoing activities?

(2) The following technical criteria apply to the evaluation and review of applications for conservation grants:

(i) What is the nature of the proposed project with respect to project design and management plan?

(ii) To what extent does the application exhibit knowledge of the technical area to which the conservation project relates and employ the most promising or appropriate methods or techniques of conservation? To what extent is the conservation project likely to use, develop or demonstrate improved, more efficient, or more economic methods of conservation?

(iii) Does the project have an adequate budget to achieve its purpose? Is the burden reasonable and adequate in relation to the objectives of the project?

(iv) What are the qualifications of the personnel the applicant plans to use on the project and the proposed time that each person is obligated to commit to the project?

(j) *Grant condition.* An applicant which has received a grant in a prior fiscal year under the IMLS conservation grant program may not receive a grant in a subsequent fiscal year under this section until required reports have been submitted regarding the performance of the previous grant.

(k) *Allowable and unallowable costs.* (1) Section 1180.56 of the IMLS regulations, which applies to conservation grants, sets forth the rules applicable to determining the allowability of costs under IMLS grants and refers applicants and grantees to the OMB circulars containing applicable cost principles which govern Federal grants generally.

(2) In general such costs as compensation for personal services, costs of materials and supplies, rental costs, and other administrative costs specifically related to a conservation project are allowable under a conservation grant in accordance with applicable cost principles.

(3) Costs of alterations, repairs and restoration to an existing facility are allowable when they are related to a conservation project under a conservation grant in accordance with applicable cost principles.

(4) Costs of equipment are generally allowable if related to a conservation project but do require specific approval as indicated in the grant award document.

(5) A grantee may award a stipend to an individual for training in connection with a conservation project.

(6) Costs of new construction are unallowable. For example, a museum may not use a conservation grant to construct a new building or an addition to an existing building to improve the environment in which its collections are housed.

[71 FR 6373, Feb. 8, 2006]

## **PART 1181—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE INSTITUTE OF MUSEUM AND LIBRARY SERVICES**

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